

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Jose and Elizabeth Carlos v. County
CASE NUMBER	TC 019723
COURT	Los Angeles Superior Court Compton Branch
DATE FILED	July 27, 2006
COUNTY DEPARTMENT	Sheriff's Department Contract Cities Fund- Lynwood
PROPOSED SETTLEMENT AMOUNT	\$250,000
ATTORNEY FOR PLAINTIFF	Steven W. O'Reilly
COUNTY COUNSEL ATTORNEY	Jonathan McCaverty
NATURE OF CASE	<p>On May 29, 2005, Sheriff's Deputies responding to an unrelated family disturbance were flagged down by a child who indicated that his father had just been stabbed. The Deputies met with the child's father, who had a laceration on his arm, and the father indicated that the man that stabbed him was inside an apartment.</p> <p>The Deputies were unsuccessful in their efforts to talk the suspect out of the apartment so the Deputies could</p>

investigate the stabbing incident. At some point, the suspect's brother, plaintiff Jose Carlos, arrived on the scene and attempted to talk his brother out of the apartment. Suddenly, the suspect exited the apartment armed with large knives in both hands, and charged at the Deputies. The Deputies fired their guns at the suspect.

One of the shots that was fired ricocheted and struck the plaintiff. He was hit approximately two inches above his right ankle. He underwent four surgeries for his injuries and may require an additional one. Plaintiff's wife, Elizabeth Carlos, is claiming loss of consortium. Due to the risks and uncertainties of litigation, a full and final settlement of the case in the amount of \$250,000 is recommended.

PAID ATTORNEY FEES, TO DATE	\$11,736
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PAID COSTS, TO DATE	\$856
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Summary Corrective Action Plan



The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	<u>JOSE AND ELIZABETH V. COUNTY OF LOS ANGELES</u> May 29, 2005 (Corrective Action Plan #2007-005)
Briefly provide a description of the incident/event:	<p>On May 29, 2005, at approximately 11:26 PM, Los Angeles County deputy sheriffs, while responding to an unrelated call for service, were flagged down by a child who said that his father had just been stabbed. After meeting the child's father, they confirmed the man had sustained a laceration to the arm. The man indicated that the individual who stabbed him was inside a nearby apartment.</p> <p>Outside the apartment, the deputies were met by the plaintiff and his wife. The plaintiff attempted to convince the suspect to exit his apartment when the suspect suddenly emerged armed with two large knives and charged the deputies. The deputies fired their duty weapons, striking the suspect. He was pronounced dead at the scene.</p> <p>NOTE: The heirs of the deceased did <u>not</u> file a claim against the County of Los Angeles.</p>

1. Briefly describe the root cause of the claim/lawsuit:

One of the shots fired by a Los Angeles County deputy sheriff apparently ricocheted and struck the plaintiff approximately two inches above his right ankle. He subsequently underwent four surgeries over the next two years. He may require an additional surgery.

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

This is a case of adverse liability. A Los Angeles County Sheriff's Department employee caused the plaintiff's injuries.

In defense of their lives and the lives of others, the deputies acted reasonably in this incident. The plaintiff was an innocent bystander and sustained a serious gunshot wound.



County of Los Angeles
Summary Corrective Action Plan

The Los Angeles County Sheriff's Department's internal administrative investigation revealed no employee misconduct on the part of Department personnel. Concern was expressed relating to a procedural matter. Appropriate administrative action was taken.

RECOMMENDED SETTLEMENT AMOUNT: \$250,000.00

3. State if the corrective actions are applicable to only your department or other County departments:
(If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)

- ☐ Potentially has County-wide implications.
- ☐ Potentially has implications to other departments (i.e., all human services, all safety departments, or one or more other departments).
- ☐ Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator)  David J. Long, Captain Risk Management Bureau	Date: 11-28-07
Signature: (Department Head)  Leroy D. Baca Sheriff	Date: 12/4/07

**LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
RISK MANAGEMENT BUREAU
CORRECTIVE ACTION REPORT**

Corrective Action Report Number: 2007-005

Lawsuit:

Name: **Jose and Elizabeth v. County of Los Angeles**
Case/Docket Number: (Compton Superior Court Case No. TC019723)

Investigator: Richard W. Debruijn, Deputy
Risk Management Bureau

Incident:

Date/Time: May 29, 2005; 11:26 PM

Location: 3396 Virginia Avenue
Lynwood
(Contract city)

Station, Bureau, or Facility: Century Station
Field Operations Region II

Risk Issues:

A public entity is responsible for the negligent acts of its employees when the acts are committed in the course and scope of employment.

Investigative Summary:

On May 29, 2005, at approximately 11:26 PM, Los Angeles County deputy sheriffs, while responding to an unrelated call for service, were flagged down by a child who said that his father had just been stabbed. After meeting the child's father, they confirmed the man had sustained a laceration to the arm. The man indicated that the individual who stabbed him was inside a nearby apartment.

The deputies were unsuccessful in their attempts to talk the suspect out of his apartment so they could investigate the stabbing incident.

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JOSE AND ELIZABETH V. COUNTY OF LOS ANGELES
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Outside the apartment, the deputies were met by the plaintiff, Jose Carlos and his wife, Elizabeth. The plaintiff attempted to convince the suspect to exit his apartment when the suspect suddenly emerged armed with two large knives and charged the deputies. The deputies fired their duty weapons, striking the suspect. He was pronounced dead at the scene.

Damages:

One of the shots fired by a deputy sheriff apparently ricocheted and struck the plaintiff, Jose Carlos, approximately two inches above his right ankle. He subsequently underwent four surgeries over the next two years. He may require an additional surgery.

Jose Carlos' wife, Elizabeth Carlos, alleged loss of consortium.

Administrative Review:

Was a Risk Management Bureau (RMB) Critical Incident Analysis (CIA) conducted?	Yes
Was a formal administrative review initiated?	Yes
If yes, was appropriate administrative action taken?	Yes ¹
Was the employee's driving history analyzed during the administrative review?	N/A

Policy Issues:

The Los Angeles County Sheriff's Department had adequate policies and procedures in effect at the time of the incident.

Training/Curriculum Issues:

The Los Angeles County Sheriff's Department's current training curriculum sufficiently addresses the circumstances which occurred in this incident.

Following the incident, the Los Angeles County Sheriff's Department's Executive Force Review Committee issued Force Review Briefing #07-01 providing additional guidance to department personnel.

¹ This incident was investigated by representatives of the Los Angeles County Sheriff's Department. Appropriate administrative action was imposed against one Sheriff's Department employee for a matter unrelated to the specific incident giving rise to this lawsuit.

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Evaluation:

This is a case of adverse liability. A Los Angeles County Sheriff's Department employee caused the plaintiff's injuries.

In defense of their lives and the lives of others, the deputies acted reasonably in this incident. The plaintiff, Jose Carlos, was an innocent bystander and sustained a serious gunshot wound. Consequently, it is believed a jury could return a verdict for Jose Carlos and a judgment exceeding the recommended settlement amount. A full and final settlement at this time will avoid further litigation costs and a potential jury verdict anticipated to exceed the recommended settlement amount.

NOTE: The heirs of the deceased did not file an action against the County of Los Angeles.

Corrective Action:

The Los Angeles County Sheriff's Department's internal investigation revealed no employee misconduct on the part of Department personnel. Concern was expressed relating to a procedural matter and appropriate administrative action was taken.

Will a formal Risk Management Bureau (RMB) audit be required?	No
If yes, what is the date the audit will be performed?	N/A
Name of unit performing audit?	N/A
Does this corrective action plan require the notification to, or assistance of, other Los Angeles County departments or public agencies?	No
If yes, what is the name, title, and organization of the person contacted?	N/A
How was the individual contacted?	N/A

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Settlement Amount: \$250,000.00

Prepared: Patrick Hunter, Lieutenant
Risk Management Bureau

PH

Submitted: David J. Long, Captain
Risk Management Bureau

DL

Reviewed: Eric B. Smith, Commander
Leadership and Training Division

ES

Reviewed: Roberta A. Abner, Chief
Leadership and Training Division

RAB

Approved: Leroy D. Baca
Sheriff

Signature:

Leroy D. Baca

Date:

11/20/07

Los Angeles County Sheriff's Department

Force Review Briefing

Executive Force Review Committee (323) 890-5407

The Executive Force Review Committee consists of three area commanders and evaluates each force or shooting incident that the Force/Shooting Response Team investigates. The Committee determines whether the actions of the involved personnel were consistent with training, tactics, proper use of equipment, and Department policy. During the Committee's evaluation of each incident, issues are identified and discussed. This Force Review Briefing bulletin was created as a vehicle to disseminate the information in hopes that it will generate discussion during briefings and field training. The following is a brief, edited summary of a factual incident. The issues of concern are discussed after the incident.

Case #07-01

Date: March 7, 2006

INCIDENT

After concluding a missing person report call, a deputy was contacted by a young boy who told him his father had been stabbed by another man in the same apartment complex. The investigation revealed the victim had superficial scratches and cuts to his arms, but was reluctant to pursue the issue.

The deputy requested backup, and once deputies arrived they tried to contact the suspect in his apartment. There was no answer so they left. In front of the apartment complex they were met by the suspect's family members, who said the suspect called them and said he had "done something bad." They requested the handling deputy to help them contact the suspect. He then requested a sergeant to respond to the location. The deputies and the sergeant met and planned their approach to the apartment. One TASER was deployed with a deputy and three other deputies held containment positions in front of and on each side of the apartment door. The sergeant video taped the incident and stood near the door of the apartment unit, facing directly into the unit.

The deputies watched the suspect through the locked, front security screen door as he performed martial arts techniques while holding long kitchen knives and consuming alcohol. The suspect appeared incoherent and intoxicated, and did not respond to orders to drop the knives and exit the location. The suspect's brother was escorted to the front door to talk to the suspect, but he could not convince the suspect to exit the apartment. However, the suspect did open

the screen door, but did not exit, nor did he drop the knives. His brother continued to ask him to exit the apartment and surrender to deputies. Without warning, the suspect bolted out of the apartment with large knives in both hands and charged the deputy standing near the front door. Because of his proximity to the door, the deputy had to step away from the suspect as the suspect lunged at him. The deputy deployed the TASER from a close distance, but it had no effect. Deputies and the sergeant, who had dropped the video camera, then shot the suspect. The suspect sustained multiple gunshot wounds and was pronounced dead at the scene. The suspect's brother, who was still standing in front of the apartment, moved toward the suspect and received a gunshot wound to the right leg. No deputies were injured.

ISSUES*Sergeant's Duties*

Sergeants must ensure the operation is properly executed. The sergeant must first guarantee personnel involved in the operation know who is the incident commander. A sergeant must know the plan, each deputy's assigned task, and how to react if anything changes. They must be in a position to supervise the incident and act as the incident commander when required. Managing resources and assembling the proper amount of personnel to safely handle the incident will allow a sergeant to focus on their duties. They should not assign themselves a task, such as video taping the incident, because it hampers their ability to supervise and direct operations. Designating tasks, ensuring deputies perform their tasks, and having

FRB #07-01

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Mar. 13, 2007

back-up plans are keys to protecting the public and deputies.

Changing Incidents

When a scenario changes, mind set and awareness must also change. Each incident has risks to prepare for, and transitioning from a report call to a call involving an armed, assault with a deadly weapon suspect requires personnel to adjust quickly. Handling the immediate threat, as well as numerous peripheral issues, must be done without haste.

Planning

When possible, a plan needs to be developed to deal with the approach and with the detention of suspects. A back-up plan should also be discussed. Coordinating resources and designating tasks for these types of critical incidents should be discussed regularly during briefings.

In situations where a member of the public is requested to assist with an incident, deputies have a duty to protect that person. For example, allowing the person inside a danger area is inadvisable because it may place that person within a deputy's line of fire.

Resources

An armed, violent felon who refuses to exit a location is considered a barricaded suspect. Patrol personnel should request assistance from other department units such as SEB, CNT, and K-9 rather than take immediate action unless absolutely necessary. If the location must be approached, deputies are needed for the following: Arrest teams, less-lethal weapons, designated shooters, and to operate the radio. Containment positions must be staffed, and personnel are needed to secure the area so the team can operate safely.

Less-Lethal Options

Less-lethal weapons provide options when a suspect does not pose an imminent threat to lives or serious bodily injury. They also

provide the opportunity to maintain distance in order to avoid using personal weapons. However, no one weapon is adequate to handle all situations. Multiple options need to be available in case of weapon failure or to react to an evolving threat. For example, if a TASER dart fails to lodge in a suspect, an ARWEN round can be fired before the suspect can continue an assault. Safety is of paramount concern. When suspects are armed and less-lethal or lethal force may potentially be used, a coordinated, tactical approach with those weapons will improve safety. Plans to safeguard civilians must be in place before the use of force occurs.

Designated Shooters

Designated shooters protect other deputies who are performing a specific mission in an operation and are unable to defend themselves because their task may require their weapon be holstered or secured. These specific tasks/personnel include, but are not limited to, searches of suspects, arrest team personnel, personnel assigned the deployment of less-lethal weapons, crowd control personnel, and employees involved in K-9 searches. Sergeants must ensure arrest team deputies and those with less-lethal weapons know how to react if designated shooters need to use deadly force. In many cases those not assigned as designated shooters may endanger others by becoming an additional shooter. Deputies assigned as designated shooters are often not able to safely engage the suspect due to poor target acquisition and cross-fire risks. Pre-planning will ensure the deputies' safety and a clear line of fire for designated shooters.

Crossfire

When the containment is properly set and approaching deputies follow their plan, the chance of deputies or bystanders being in a crossfire if deadly force is used will be substantially reduced. Even when bystanders do the unexpected, crossfire issues and safety hazards are minimized when the plan ensures a secure work area for deputies.